IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICITON

INCOME TAX APPEAL NO.256 OF 2004
WITH
INCOME TAX APPEAL NO.257 OF 2004
WITH
INCOME TAX APPEAL NO.689 OF 2004

The Commissioenr of Income-tax-3 .. Appellant.

Versus

M/s.R.R. Investments & Estate Ltd. .. Respondent.

Mr.Ashok Kotangale for the appellant.

CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.

DATED : 7TH AUGUST, 2007.

P.C. :

1. These three appeals filed by the Revenue under Section 260A of the Income Tax Act, 1961 relating to Assessment Years 1989-90, 1990-91 and 1992-93.

2. The question raised by the Revenue in the present case is, whether the compensation received by the assessee from various occupations of the office units in the building known as Chandramukhi were taxable under the head ‘income from business’ or under the head ‘income from house property’ ?

3. The respondent-assessee owns a building

known as Chandramukhi at Nariman Point, Bombay. In the assessment years in question, the amounts received by the assessee by way of compensation from various occupations of the office units in the said building were sought to be taxed as income from house property.

4. On appeal filed by the assessee, the C.I.T. (A) held that the compensation received from the occupants were taxable under the head 'income from business' and not under the head 'income from house properties'. On further appeal filed by the Revenue, the Tribunal relying upon the judgments of this Court in the case of C.I.T. V/s. Shree Nirmal Commercial Limited reported in 213 ITR 361 upheld the order passed by the C.I.T. (A). Challenging the aforesaid order, these appeals are filed by the Revenue.

5. The only argument of the Revenue is that the decision of this Court in the case of Shree Nirmal Commercial Limited (supra) is distinguishable on facts because in that in that case Shree Nirmal Commercial Limited had sold the units to the respective occupants, whereas in the present case, the assessee continues to be the owner of the building.

6. In our opinion, there is no merit in this contention because the finding recorded by the Tribunal in the present case is that the occupants are in possession of the respective premises as share-holders by subscribing to the shares and the amount received by the assessee are towards maintenance charges and municipal taxes payable in respect of the properties. Same was the case in the case of Shree Nirmal Commercial Limited (Supra).

7. In this view of the matter, in our opinion, the issues raised in this appeal are squarely covered by the decision of this Court in the case of Shree Nirmal Commercial Limited (Supra).

8. Accordingly, all these appeals are dismissed with no order as to costs.

(F.I. REBELLO, J.)

(J.P. DEVADHAR, J.)